



Unapproved COMMUNITY RESOURCES AGENCY

BEV SHANE, AICP
Director

Administration - Building - County Surveyor - Engineering - Environmental Health - Fleet Services - GIS - Housing - Planning - Roads - Solid Waste

TUOLUMNE COUNTY PLANNING COMMISSION MEETING MINUTES August 19, 2015

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PRESENT: Chairman Dick Pland, Vice Chairman Jerry Baker, and Commissioners Charlotte Frazier, Cole Przybyla and Peter Rei

ABSENT: Commissioner John LaTorre

STAFF: Bev Shane, Community Resources Director, Duke York, Deputy CRA Director, Sirena Waldman, Department Support Technician

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CALL TO ORDER/WELCOME:

Chairman Pland called the meeting of August 19, 2015, to order at 6:00 p.m. and led the Commission and audience members in the Pledge of Allegiance.

The Commission rearranged its agenda during the meeting; however, the minutes have been prepared to follow the printed agenda for the purpose of consistency.

PLANNING COMMISSION BUSINESS:

1. Reports:

Chairman Pland asked if any members of the audience needed copies of the agenda or any other meeting materials.

Chairman Pland announced that agenda item 3, the Blue Mountain Minerals project will be continued to a special meeting on August 31, 2015, due to a lack of quorum. The Commission was unaware of the lack of quorum until shortly before the meeting.

Ms. Shane advised the Commission that although the Blue Mountain Minerals project has been continued, hearing notices will be mailed to those who have expressed interest in the project.

Chairman Pland asked if Staff had anything to report.

Ms. Shane advised the Commission that there are no items for the September 2, 2015 meeting; therefore, it will be cancelled. She said there will be a special meeting August 31, 2015, for the Commission to consider the continued Blue Mountain Mineral project.

Chairman Pland asked if any of the Commissioners had anything to report.

The Commissioners had nothing to report at this time.

2. Report from the Board of Supervisors Planning Committee Representative

Chairman Pland asked if the Commission Representative had anything to report.

Vice Chairman Baker said that the Board of Supervisors Planning Committee (BOSPC) did not have a meeting, and therefore, he had nothing to report.

3. Report from the Agricultural Advisory Committee Representative

Chairman Pland said currently the Commission does not have an Agricultural Commission Representative; therefore, there is nothing to report.

Ms. Shane said the Committee has not had a meeting.

4. Minutes of the meeting of August 5, 2015

Chairman Pland asked if there were any changes or corrections to the Minutes of the meeting of August 5, 2015.

It was moved by Vice Chairman Baker and seconded by Commissioner Rei to approve the Minutes of the meeting of August 5, 2015, as presented.

Chairman Pland called for the vote: Ayes, 5; Noes, 0; Abstain, 0.

Motion carried 5 – 0 - 0, with Commissioner La Torre being absent.

5. Consideration of approving a response to the findings and recommendations in the 2014-2015 Grand Jury Report regarding the Tuolumne County Planning Commission.

Ms. Shane explained that on August 18, 2015, the Board of Supervisors considered its response to the Grand Jury Report and that the updated response given to the Commission reflected how the Board had responded.

It was moved by Commissioner Rei and seconded by Vice Chairman Baker to approve the changes made to the Commission's response to the Grand Jury Report.

Chairman Pland called for the vote: Ayes, 5; Noes, 0; Abstain, 0.

Motion carried 5 – 0 – 0, with Commissioner LaTorre being absent.

PUBLIC COMMENT:

Chairman Pland opened the 15 minute public comment period, during which anyone wishing to could come forward and address the Commission on any item not on the Agenda. Seeing no one who wished to address the Commission at this time, he closed the public comment period.

PUBLIC HEARING:

NEW ITEM:

1. 4-C PROPERTIES,

Conditional Use Permit CUP12-008 for the construction of a 108± foot tall multi-carrier wireless telecommunications tower, equipment shelters and related equipment within a 50 foot by 50 foot fenced compound. The project site is a 77± acre parcel zoned AE-37 (Exclusive Agricultural, Thirty-Seven Acre Minimum) under Title 17 of the Tuolumne County Ordinance Code and is within Agricultural Preserve 176.

The project site is located at the end of an unnamed access road 0.3± mile southwest of its intersection with State Highway 120. The intersection is west of Tenaya Elementary School, and 0.4± mile east of the intersection of Ferretti Road and State Highway 120. The parcel is in Section 21, Township 1 South, Range 16 East, Mount Diablo Baseline and Meridian. Assessor's Parcel Number 66-030-13.

Ms. Shane described the project, its location, and zoning to the Commission and said that 4-C Properties is looking for approval of the Conditional Use Permit that would allow them to construct a 108 foot tall multi-carrier wireless telecommunications tower, equipment shelters, and related equipment within a 50 foot by 50 foot compound. She said this project was reviewed by the Agricultural Advisory Committee at its July 19, 2015, meeting because this site is within an agricultural preserve. She said the Agricultural Advisory Committee recommended approval of the project by unanimous vote. She said the project was also reviewed by the Airport Land Use Commission (ALUC) at its meeting on August 2, 2015 and found that the project is consistent with the Tuolumne County Airport Land Use Compatibility Plan. She said the ALUC had recommended placing a beacon light on the tower. She said the applicant has proposed a beacon for the tower; however, Section 17.53.080(C) of the Tuolumne County Zoning Ordinance states "No facility shall be installed at a location where special painting or lighting will be required by the Federal Aviation Administration (FAA) regulations." She said the FAA requires beacons on towers 200 feet tall and the proposed tower is only 108 feet tall. She said Condition 3 states that prior to a building permit being issued, the applicant must demonstrate the beacon is not required by the FAA. She advised the Commission that comments received from adjoining property owners included concerns regarding a beacon light on the tower, the tower would be unsightly and should be camouflaged, the tower would negatively impact properties in the area, and there were concerns about a lack of access to the site. She said the applicants have secured a new easement by deed that allows them to fully utilize the access road.

Chairman Pland asked if any Commissioners had questions or comments.

Seeing none, Chairman Pland opened the public hearing and called for any proponents of the project.

Leonard Cassaretto introduced himself as the property owner and said that he will meet the recommendations and conditions and hopes for an approval from the Commission.

Chairman Pland asked if there were any other proponents wishing to speak. Seeing no one, he asked if anyone wished to speak in opposition to the project. Seeing no one, he asked if anyone wished to speak neither for nor against concerning the project. Seeing no one, he closed the public hearing and referred the item to the Commission.

Vice Chairman Baker said one of the largest problems Groveland has is lack of cell phone coverage. He said it is a safety issue, a commercial issue and a convenience issue. He said having more cell coverage can only help those situations.

It was moved by Commissioner Frazier and seconded by Vice Chairman Baker to approve Conditional Use Permit CUP12-008 based upon Findings A through F, and subject to Conditions 1 through 33.

Chairman Pland called for the vote: Ayes, 5; Noes, 0; Abstain, 0.

Motion carried 5 – 0 – 0, with Commissioner LaTorre being absent

1. Mitigated Negative Declaration for Zone Change RZ12-005 and Vesting Tentative Parcel Map T12-013(2) determining that the project will not result in significant adverse impacts to the environment by incorporating measures to mitigate the potential impacts into the conditions of approval.
2. Ordinance for Zone Change RZ12-005 to rezone a 79.8± acre site from K (General Recreational) under Title 17 of the Tuolumne County Ordinance Code as follows:

PROPOSED ZONING	ACREAGE
A-10 (General Agricultural, Ten Acre Minimum)	71.8±
O (Open Space)	5.6±
O-1 (Open Space-1)	2.4±

Ms. Shane described the project, its location and zoning to the Commissioners and said that it is the previous site of the Berkeley/Contra Costa Boy Scout Camp, commonly referred to as Camp Bray. She said that the camp was in existence from 1949 to the 1970's and included 17 cabins. She said the applicant is requesting a Zone Change to facilitate a Vesting Tentative Parcel Map to divide the site into four parcels with a remainder. Approval of the requested zone change would also bring the zoning into consistency with the General Plan land use designation. She said the four proposed parcels would allow for a maximum construction of two residences per parcel zoned A-10, for a potential of eight residential units on the project site. She said the applicant has proposed rezoning 2.0± acres of the site from K to O-1 (Open Space-1), and 1.8± acres to O (Open Space), in order to conserve the segment of the South Fork of the Stanislaus River riparian corridor on the site. Approximately 0.4± acre, in the southwestern portion of the site will be rezoned from K to O-1 to preserve a segment of the Sugar Pine Railroad spur. The applicant has proposed rezoning 3.3± acres of the project site, along the ephemeral streams, intermittent stream, and seasonal wetland areas on the site, to O to mitigate impacts to wildlife and conserve those corridors. Approximately 0.5± acre to the east of Old Strawberry Road will be rezoned O to preserve a linear segment of the Strawberry Spur of the Sugar Pine Railroad grade. She said the Sugar Pine Railroad Grade goes through the property and comments have been received expressing interest in keeping the trail open to the public. She described a letter from the Forest Service requesting public access along the trail to the river. She said because the proposed project is a zone change and the land division is a tentative parcel map and not a subdivision map, there are no requirements for public access. She advised the Commission of comments received from adjoining property owners relative to retaining the site for recreational use, concerns about public access, insufficient water available from Del Oro Water Company, and insufficient fire protection. Ms. Shane said the property will be served by private wells. She said the Fire Prevention Bureau addressed the fire concern and fuel reduction is required on the property. She said the increased traffic on the access road was estimated to be a maximum of 80 vehicle trips per day. She said this was calculated using 10 vehicle trips per day (VTPD) multiplied by 8, the maximum number of single-family residences, totaling 80 VTPD. She said to protect it from the encroachment of contamination on the site Open Space zoning is proposed along the river. She said this project was reviewed through a Mitigated Negative Declaration which determined that there were potential impacts on the environment and mitigation measures have been incorporated into the proposed Conditions of Approval for the Tentative Parcel Map to reduce those potential impacts to a less than significant level. She said if the Commission recommends approval of the Zone Change it must also recommend approval of the Mitigated Negative Declaration.

Chairman Pland asked Ms. Shane if there is an alternative access to the river for public use.

Ms. Shane said there is a public trail from the campground.

Chairman Pland opened the public hearing and called for any proponents of the project.

Kevin Barr introduced himself as the owner of Barr Construction and said that he was the Jimenez representative. He said that he is a custom home builder and a professional "green builder" that wants to ensure the protection of the natural vegetation and river on the property. He said there is river access on a Forest Service trail about 200 feet up the road from the project site and an

additional access point at the old bridge. He said the portion of the railroad grade that is in question has already been declared a cultural resource and was fenced off. He said the owners would like to build a custom cabin for themselves and later additional cabins for their adult children. He said each home will have a storm water retention system collecting rain water and redistributing it into the ground. He said the septic system has been built beyond requirements and includes a double pump automatic alarm system that will automatically engage a generator and backup pump if there is a problem. He said that Mr. and Mrs. Jimenez have been working on this project for two years consulting with numerous agencies, including Fish and Game, a biologist, cultural resources and a geologist. He said he is confused by the last minute letter from the Forest Service considering there is a trail 200 yards up the road. He said the history of this property has seen a series of abuses on the land. He said in the past, the property has been used for off road vehicles, dirt biking, firearm shooting and littering. He said 500 cubic yards of garbage and debris were removed from this property after Mr. and Mrs. Jimenez purchased it. He said the property was masticated for fire fuel reduction and now the property is healing and returning to its natural state. He said the trail the Forest Service is referring to is a driveway that leads to a water storage building. He said the owners have provided a fire hydrant on the property with the intent to give fire protection agencies access. He said the Jimenez's main concern about leaving the trail open to the public is the liability pedestrians create.

Chairman Pland asked if any Commissioners had any questions for Mr. Barr.

Commissioner Rei asked Mr. Barr to describe how the trail was fenced off.

Mr. Barr said the Sugar Pine Spur trail will be fenced off because it was identified as a significant cultural resource.

Mr. York described the location of the railroad grade on a large map for the Commissioners and the public.

Commissioner Przybyla asked if the railroad grade would be fenced off on all sides.

Mr. Barr said it is his understanding that the trail was required to be fenced off on all sides.

Ms. Shane referred to a map on page 23 of the Agenda Report and described the small area of the railroad grade that will be fenced off.

Chairman Pland opened the public hearing and called for any proponents of the project. Seeing no one, he asked if anyone wished to speak in opposition to the project.

John Buckley from Central Sierra Environmental Resource Center (CSERC) introduced himself and said he is not in opposition if certain conditions can be applied to some of the controversy. He complimented Barr Construction and the "green" work they do. He quoted a passage from page 44 of the Initial Study regarding the Sugar Pine Railroad Grade and public access. He quoted a letter from the Forest Service requesting a public easement across the property in 2012. He said the Fraser Flat trail is heavily populated because it is easily accessed. He said that he believes there is a legal challenge possible if public access is not protected. He asked the Commission to approve the project and provide minimal public access as a condition of approval. He said there is an engineered septic system that has been approved and that there are no additional requirements for the proposed additional septic systems. He said it is possible that there could be eight homes and possibly eight septic systems. He asked the Commission to look at page 17, item 38, while he explained the setbacks of buildings and the septic systems on the property. He said if the septic systems were kept 150 feet back from the stream it would allow a safe buffer in the event of a failure. He said there is currently one proven well on the property with the possibility of eight new homes. He requested the Commission ensure Open Space, public trail, and the setback is at least 150 feet.

Chairman Pland asked if anyone else wished to speak in opposition to the project. Seeing no one he asked if anyone wished to speak neither for nor against the project.

Meredith Dean introduced herself as a resident of Strawberry and said this particular area was called "The Commons" and the public has always had access to the property. She asked if the old Boy Scout Camp Trail would be allowed for public access and said it is currently used as a bike trail. She said public access to the railroad grade trails is imperative to local bike rental companies. She described multiple trails in the area. She said that four more wells in the area could dry out the natural wet meadows. She said that she would like the owners to live in these homes so that the population of Strawberry would increase.

Chairman Pland asked Mr. York to respond to the comments regarding the "Old Boy Scout Camp Trail".

Mr. York said he is not familiar with the "Old Boy Scout Camp Trail". He said he could explain the relationship of the Forest Service Ranger District Office, roads and the property to Ms. Dean.

Vice Chairman Baker asked if there are any deeded trail easements on the property.

Ms. Shane said there were not any deeded trail easements on the property.

Chairman Pland asked if the studies provided considered the effect multiple wells would have on the meadow and if it would cause the meadow to go dry.

Ms. Shane said the property has a hard rock fracture system where there can be two wells right next to each other and they have no relationship. She said by Title 13 of the Tuolumne County Ordinance Code requires each well to have adequate water for the type of use, prior to being signed off by Environmental Health.

Commissioner Rei asked for clarification on the number of homes allowed to be connected to one well.

Ms. Shane said five connections would be considered a small water system and would be regulated by the State.

Chairman Pland asked if anyone else wished to speak neither for nor against the project.

An unnamed gentleman from the audience said he called and spoke with Ms. Hendry, CRA Planner, and that she told him if a person was traveling down the river along the shore that they would be trespassing on private property. He said as you travel upstream there is a whole section of the river that goes up to the meadow. He said if a person who owns both sides of the river has the ability to close it off, then there is a possibility the entire river could turn into a private property. He said the river access quoted in the Agenda Report as a secondary access point is also private property. He asked the Commission if the water way can be closed off to the public.

Ms. Shane said State law states that when there is a navigable water way that people have a right to utilize it for fishing and other purposes. She said there is legal right to be in the river but not on private property.

The unnamed gentleman from the audience said the only public access is at Fraser Flat. He said if this public access point is lost, there would not be any public access until Forest Service land. He said the project site is not required to hook up to the public sewer system. He asked if the Del Oro Water Company would be required to give them water if their well fails.

Vice Chairman Baker asked what defines the river and if it is defined by the high water mark and if there was room to walk along the shore.

Chairman Pland asked if there was anyone else who wished to speak neither for nor against the project. Seeing none, he asked if any one wished to speak in rebuttal. Recognizing that Mr. Barr had

been the only person to speak for the project, Chairman Pland asked him if he had a rebuttal for the comments.

Mr. Barr thanked Mr. Buckley for his compliments. He said the septic systems are required to be away from the river. He said the double pump system with generators and alarms is to ensure safety of the river.

Chairman Pland asked how far the septic systems were from the river.

Mr. Barr said the septic systems are 100 feet from the river and the leach field is located further from the system. He said 150 feet from the river is an acceptable requirement and the leach field would be approximately 200 feet from the river.

Commissioner Rei asked if the tank was 150 feet away.

Mr. Barr said the septic tank has to be near the building and that it is close to 120 feet from the river.

Mr. York said that Title 13 has two standards for the septic system and leach field. He said an engineered septic system allows the septic tank to be closer than the leach lines.

Mr. Barr said they are currently building the Jimenez home. He said during the construction of the home, a stress test was performed on the well. He said they were using 5000-6000 gallons of water a day and the well did not fail. He said a single family residence uses about 600 gallons per day and that there is around 9,000 gallons in storage. He said there are five potential locations on the property for well sites. He said a geologist was hired to confirm the water sources found on the property.

Vice Chairman Baker asked if there are any intentions to make the 9000 gallon storage tank bigger.

Mr. Barr said the current storage is large enough for the family use.

Vice Chairman Baker asked if there is a fire flow requirement for this project.

Ms. Shane said there is not a fire flow requirement because this is Agricultural zoning. She said that current building code requires fire sprinklers in all new homes.

Mr. Barr said they installed large water mains to the property to ensure that all the sprinklers come on at the same time compared to other systems that only come on where heat is detected. He said in regards to the trail head there is room to make a public parking lot and both sides of the road are owned by the Forest Service. He said the west side of the Jimenez property adjoins Forest Service property and that has public access. He said public access along the river would not require people to walk in the water. He said the high water mark is very high.

Commissioner Rei substantiated that the high water mark is the last known level prior to human intervention.

Chairman Pland asked if anyone else wished to speak during rebuttal. Seeing no one, he asked if anyone wished to speak in surrebuttal.

Mr. Buckley said he will be pleased if the distance from the river to the septic system is 150 feet. He said that there needs to be clarity if the public will have the ability to walk along the trail. He asked that the project not curtail public access.

Chairman Plan asked if there was anyone else wishing to speak. Seeing no one, he closed the public hearing and referred the item to the Commission.

Ms. Shane said to the Commission that this hearing is to consider the Zone Change and conditions cannot be applied to zoning. She said the County Ordinance Code specifies the minimum setbacks, from various types of waterways for septic systems.

Mr. York said the Title 13 requirement for the separation from a perennial stream or river is that the disposal field is at a minimum of 100 feet away and that the septic tank be a minimum of 50 feet away, as measured from the high water mark.

Ms. Shane said there will be 100 feet of Open Space in which a septic system cannot be placed. She said there is a 150 foot setback for buildings as a proposed mitigation measure to the Parcel Map.

Commissioner Rei asked for clarification that the Commission cannot require an easement on the property. He suggested the applicant and interested parties cooperate in the interest of public access to try and perpetuate everyone's ability to enjoy the river.

Ms. Shane said the County does not have the ability to require an easement with a zone change.

Vice Chairman Baker asked for clarification on prescriptive easements and asked if it would apply to this case.

Ms. Shane said a court would have to determine a prescriptive easement.

Vice Chairman Baker said there is recourse available for anyone that would wish to challenge the easement in court.

Chairman Pland said that since the high water mark is the historic high water mark, there seems to be enough room for people to access the river.

It was moved by Commissioner Przybyla and seconded by Commissioner Frazier to recommend approval of the Negative Declaration prepared for this project based upon Findings A through F and recommend approval of the proposed Zone Change RZ-12-005 based upon Findings A through C.

Chairman Pland called for the vote: Ayes, 5; Noes, 0; Abstain, 0.

Motion carried 5 – 0 – 0, with Commissioner LaTorre being absent.

3. Blue Mountain Minerals,

1. Certification of the Environmental Impact Report (EIR) (State Clearinghouse # 2013082018) for the Blue Mountain Minerals Agricultural Fill Revision Project and its associated entitlements described below and approval of the Mitigation Monitoring Program (MMP) prepared in accordance with the California Environmental Quality Act (CEQA).
2. Conditional Use Permit CUP13-002 to amend Conditional Use Permit 02CUP-56 to expand the existing Blue Mountain Minerals quarry site from 309± acres to 336± acres by expanding the 48-acre Agricultural Fill area by approximately 27 acres to achieve an approximately 75-acre Agricultural Fill area, on a site zoned AE-37 (Exclusive Agricultural, thirty-seven acre minimum), AE:37:AIR (Exclusive Agricultural, thirty-seven acre minimum:Airport Combining) and O-1:AIR (Open Space - 1:Airport Combining) under Title 17 of the Tuolumne County Ordinance Code.
3. Reclamation Plan RP13-001 to amend Reclamation Plan 02REC-01 to:
 - A. Revise the mining pit phasing to allow for more flexibility in mining due to changing market conditions,
 - B. Reconfigure the existing Agricultural Fill area and expand it by 27± acres,

- C. Revise tree and shrub replacement ratios in the approved revegetation plan based on current studies, and
- D. Revise the approved revegetation plan to accommodate the changes to the mining pit development, and the proposed expanded fill area.

Ms. Shane briefly described the project site, location, and zoning.

Commissioner Pland opened the public hearing and asked if any Commissioners have anything to announce.

Commissioner Frazier recused herself from participation in the decision to avoid all appearances of impropriety, due to a personal friendship with the applicants.

Commissioner Przybyla disqualified himself from participating in the decision based on Government Code Section 87100 because it is reasonably foreseeable the decision will have a material financial effect on his business, due to a business contract with Blue Mountain Minerals.

Ms. Shane said because we no longer have a quorum of the Commissioners present to conduct a meeting, pursuant to the California Government Code, the Commission has the ability to continue the matter to a future date.

Chairman Pland continued the public hearing to a special meeting on August 31, 2015 at 6:00 p.m., in the Board of Supervisors Chambers.

ADJOURNMENT:

Chairman Pland adjourned the meeting at 7:24 p.m..

Respectfully,

Bev Shane, AICP
Community Resources Director
BJS:sw

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